

THIS IS THE ADOPTED RULE AND MAY BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS UNTIL SUCH TIME AS THE CODIFIED VERSION IS AVAILABLE FROM THE CODE REVISER'S OFFICE.

AMENDATORY SECTION (Amending WSR 99-15-095, filed 7/21/99, effective 8/21/99)

**WAC 458-57-005 Nature of estate tax, definitions.** (1) **Introduction.** This rule describes the nature of Washington state's estate tax as it is imposed by chapter 83.100 RCW (Estate and Transfer Tax Act). It also defines terms that will be used throughout chapter 458-57 WAC (Washington Estate and Transfer Tax Reform Act Rules).

(2) **Nature of Washington's estate tax.** The estate tax is neither a property tax nor an inheritance tax. It is a tax imposed on the transfer of the entire taxable estate and not upon any particular legacy, devise, or distributive share. (~~Washington's estate tax is structured so that if an estate does not exceed the unified credit allowed by the Internal Revenue Service (IRS), it will not owe any estate tax to the state of Washington. The state tax effectively shifts a portion of the federal estate tax obligation to the state. Details of the federal estate tax can be found in part 20, subchapter B, chapter I, title 26, Code of Federal Regulations (or chapter 11 of subtitle B of the Internal Revenue Code).~~)

(a) The state of Washington operates under RCW 83.100.020, which references the Internal Revenue Code (IRC) as it existed **January 1, 2001**. Federal estate tax law changes enacted after January 1, 2001, do not apply to the reporting requirements of Washington's estate tax. For deaths occurring January 1, 2002, and after, Washington has different estate tax reporting requirements than those of the federal government. There will be estates that must file an estate tax return with the state of Washington, even though they are not required to file with the federal government. Washington will continue to collect 100% of the available state death tax credit under the 2001 IRC for all estates that must file a Washington return. The Washington State Estate and Transfer Tax Return and the instructions for completing the return can be found on the department's website at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be obtained by calling the estate tax section at 360-753-5547 or 360-753-7518 or by writing to the following address:

State of Washington  
Department of Revenue

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(b) The estate tax does not apply to completed absolute lifetime transfers. Section 2035(d) of the 2001 Internal Revenue Code generally exempts such transfers. To the extent permitted by this provision, lifetime transfers are not subject to Washington estate tax. The state of Washington does not have a gift tax.

(3) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Decedent" means a deceased individual;

(b) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;

(c) "Escheat" of an estate means that whenever any person dies, whether a resident of this state or not, leaving property in an estate subject to the jurisdiction of this state and without being survived by any person entitled to that same property under the laws of this state, such estate property shall be designated escheat property and shall be subject to the provisions of RCW 11.08.140 through 11.08.280.

(d) "Federal credit" means the maximum amount of the credit for state taxes allowed by section 2011 of the 2001 Internal Revenue Code. This credit is calculated using an "adjusted taxable estate" figure, which is simply the taxable estate, less sixty thousand dollars. However, when the term "federal credit" is used in reference to a generation-skipping transfer (GST), it means the maximum amount of the credit for state taxes allowed by section 2604 of the 2001 Internal Revenue Code;

(e) "Federal return" means any tax return required by chapter 11 (Estate tax) or chapter 13 (Tax on generation-skipping transfers) of the 2001 Internal Revenue Code;

(f) "Federal tax" means tax under chapter 11 (Estate tax) of the 2001 Internal Revenue Code. However, when used in reference to a GST, "federal tax" means the tax under chapter 13 (Tax on generation skipping transfers) of the 2001 Internal Revenue Code;

(g) "Generation-skipping transfer" or "GST" means a "generation-skipping transfer" as defined and used in section 2611 of the 2001 Internal Revenue Code;

(h) "Gross estate" means "gross estate" as defined and used in section 2031 of the 2001 Internal Revenue Code;

(i) "Internal Revenue Code" or "IRC" means the United

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States Internal Revenue Code of 1986, as amended or renumbered on January 1, (~~1995~~) 2001;

(j) "Nonresident" means a decedent who was domiciled outside Washington at the time of death;

(k) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

(l) "Person required to file the federal return" means any person required to file a return required by chapter 11 or 13 of the 2001 Internal Revenue Code, such as the personal representative of an estate, a transferor, trustee, or beneficiary of a generation-skipping transfer, or a qualified heir with respect to qualified real property, as defined and used in section 2032A(c) of the 2001 Internal Revenue Code;

(m) "Person responsible," means the person responsible for filing the federal and state returns and is the same person described in subsection (l) above;

(n) "Property," when used in reference to an estate tax transfer, means property included in the gross estate. However, when used in reference to a generation-skipping transfer, "property" means all real and personal property subject to the federal tax;

(o) "Resident" means a decedent who was domiciled in Washington at time of death;

(p) "State return" means the Washington Estate Tax Return required by RCW 83.100.050;

(q) "Transfer" means "transfer" as used in section 2001 of the 2001 Internal Revenue Code, or a disposition or cessation of qualified use as defined and used in section 2032A of the 2001 Internal Revenue Code; and

(r) "Trust" means "trust" under Washington law and any arrangement described in section 2652 of the 2001 Internal Revenue Code.